

JUN 24 1986

99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-630

ORIGINAL

PROVIDING FOR THE RESTORATION OF THE FEDERAL TRUST RELATIONSHIP WITH, AND FEDERAL SERVICES AND ASSISTANCE TO, THE KLAMATH TRIBE OF INDIANS AND THE INDIVIDUAL MEMBERS THEREOF CONSISTING OF THE KLAMATH AND MODOC TRIBES AND THE YAHOOSSKIN BAND OF SNAKE INDIANS, AND FOR OTHER PURPOSES

JUNE 11, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

COMPLETED

[To accompany H.R. 3554]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 3554) to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass

The amendments are as follows:

Page 2, line 20, after the word "Act" insert a comma and "to the extent that they are inconsistent with this Act,".

Page 3, line 2, after "tribe." insert

In the case of Federal services available to members of federally recognized Indian tribes residing on or near a reservation, members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation. Any member residing in Klamath County shall continue to be eligible to receive any such Federal service notwithstanding the establishment of a reservation for the tribe in the future. Notwithstanding any other provision of law, the tribe shall be considered an Indian tribe for the purpose of the Indian tribal Government Tax Status Act (Sec. 7871, I.R.C. 1954).

Page 3, after line 6, insert:

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(e) This act does not apply to the members of the Modoc Indian Tribe of Oklahoma as recognized under section 2(a) of the Act of May 15, 1978 (92 Stat 246) and the Klamath Tribe of Indians does not (except for the purposes set out in section 2(a)(1) of that Act) include the members of the Modoc Indian Tribe of Oklahoma.

Page 3, lines 13 through 21, strike all of subsection (a), and insert:

(a) IN GENERAL.—Notwithstanding the Tribe's previous rejection of the Act of June 18, 1934 (25 USC 461 et seq.), upon written request of the General Council, the Secretary of the Interior shall conduct a special election pursuant to Section 18 of such Act to determine if such Act should be applicable to the Tribe.

Page 4, line 14, strike the words "as Indian lands are held".

Page 4, line 23, change "Sec. 8. Economic Self-Sufficiency." to "Sec. 8. Economic Development."

Page 5, line 1, after "with" insert "the Executive Committee of".

Page 5, line 3, change "self-sufficiency" to "development".

Page 8, strike all of lines 4 through 9.

Page 8, line 10, change "Sec. 11." to "Sec. 10.".

PURPOSE

The purpose of H.R. 3554 is to restore Federal recognition to the Klamath Tribe of Oregon. The Klamath Tribe was a Federally recognized Indian tribe until 1954 when Congress passed the Klamath Termination Act.

BACKGROUND

The Klamath Indian Tribe, previously known as the Klamath, Modoc and Yahooskin Band of Snake Indians, was for centuries in control of more than 20 million acres of forested lands in Oregon. In 1864 however, the Tribe signed a treaty with the United States in which it ceded all of its tribal lands except for 1.9 million acres which it reserved for itself.

Until 1954, the Tribe was a Federally recognized Indian tribe and its tribal members were eligible for Federal services given to Indians because of their special status as Indians. Congress, however, in 1954 passed the Klamath Termination Act. This Act which terminated the Federal supervision over the Klamath Tribe also meant the end of the United States' government to government relationship with the Tribe and the end of Federal Services to the tribal members. The Termination Act also provided for a sale of the tribal reservation and other tribal assets.

The Termination Act gave the tribal members an option to either withdraw from the tribe and take their share of the sale of the assets in cash or to remain with the tribe and have their share placed under trust. The 78% of the members who voted to withdraw from the tribe each received \$43,000 in 1963. The remaining members received \$275,000 each in the mid seventies after the remaining tribal assets were sold.

While the Tribe was terminated in 1954, the Tribe did not cease to exist as a tribe after that date. The Tribe's treaty rights to hunt and fish were recognized in 1974 in *Kimball v. Callahan* (493 F.2d 564, 9th Cir) and the Tribe's water rights were recognized in *United States v. Adair* (9th Cir 1979). The Tribe in 1975 readopted its 1953 Constitution and has, since the Termination Act, functioned as a tribal government. The tribal government has on many occasions entered into various contracts with the Bureau of Indian Affairs and the State of Oregon for the protection and management of the tribe's resources within the former Klamath Indian reservation.

In 1954, there were 2133 Klamaths listed on the final roll. Today, there are a total of 1988 persons listed on the final roll. Today, there are a total of 1988 persons listed on the tribal roll. The old Klamath Indian reservation was centered in the Chiloquin area of Klamath County in southeastern Oregon. Recent evidence shows that nearly 60% of the enrolled Klamaths live still on the old reservation or in Klamath County and an additional 30% of the tribal members live in Oregon. Although much has been said about the purported agreement of the Tribe to the Termination Act, a review of the legislative history of the Termination Act shows that the Tribal members were never asked whether or not they were in favor of the bill. To the contrary, hearings held on the Termination legislation shows that the tribe voted to send to Washington to represent the tribe in the hearings a slate of delegates who were against termination as proposed in the bill and that the tribe never endorsed termination as proposed in the Termination Act.

SECTION-BY-SECTION ANALYSIS

Section 1

This section cites this Act as the "Klamath Indian Tribe Restoration Act."

Section 2

Subsection (a) provides that notwithstanding any other provision of law, Federal recognition is restored to the Klamath Indian Tribe.

Subsection (b) provides that all rights and privileges which may have been lost pursuant to the 1954 Klamath Termination Act are hereby restored and the provisions of such termination Act shall not be applicable after the enactment of this Act to the tribe and the tribal members.

Subsection (c) provides that Federal services and benefits given to Indians and Indian tribes that are Federally recognized shall be given to the Klamath Indian Tribe and its members.

Subsection (d) provides that nothing in this Act shall alter rights and obligations already incurred.

Section 3

This section provides that nothing in this Act shall affect the validity of the tribe's Constitution and by-laws.

Section 4

Subsection (a) provides that notwithstanding the Tribe's previous rejection of the Act of June 8, 1934, upon written request of the General Council of the Tribe, Secretary of the Interior shall conduct a special election to determine if such Act should be applicable to the Tribe.

Subsection (b) provides that upon written request of the General Council, the Secretary of the Interior shall conduct an election pursuant to section 16 of the 1934 Indian Reorganization Act for the purpose of adopting a new tribal constitution.

Section 5

This section provides that nothing in this Act shall affect the hunting, fishing or water rights of the tribe.

Section 6

This section provides that the Secretary of the Interior shall accept in trust for the benefit of the Tribe any lands conveyed or transferred to him for this purpose. This land shall be made part of the reservation.

Section 7

This section provides that the State shall exercise criminal and civil jurisdiction within the boundaries of the reservation in accordance with 18 U.S.C. 1162 and 28 U.S.C. 1360.

Section 8

This section provides that the Secretary of the Interior, after consultation with State and local officials and with the approval of the Tribe, shall submit to Congress a plan for economic self-development. The plan shall be submitted no later than two years after the date of enactment of this Act.

Section 9

This section defines certain terms used in this Act.

Section 10

This section provides for the Secretary to make such rules and regulations as are necessary to carry out the purposes of this Act.

COMMITTEE AMENDMENTS

The Committee adopted several amendments to the bill. Many of the amendments are technical in nature and were recommended by the Administration and agreed to by the Tribe.

COST AND BUDGET ACT COMPLIANCE

This bill does not contain any new authorization for the expenditure of Federal funds. The cost analysis prepared by the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., June 11, 1986.

Hon. MORRIS K. UDALL,
*Chairman, Committee on Interior and Insular Affairs, House of
Representatives, Longworth House Office Building, Washington,
DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 354, the Klamath Indian Tribe Restoration Act, as ordered reported by the House Committee on Interior and Insular Affairs on June 11, 1986.

This bill would restore the federal trust relationship with, and federal services and assistance to, the Klamath Tribe of Indians. Although the bill does not specifically authorize the appropriation of funds, it would make all members of the Tribe eligible for all services and benefits available to federally recognized Indian tribes. Thus, while no additional expenditures are mandated by the bill, relevant federal agencies would be required to include members of the tribe among those eligible for benefits and may seek additional funds in order to provide such benefits. The Bureau of Indian Affairs estimates that the average annual cost of providing such services and benefits nationally is about \$1,300 per Indian. If this average is applicable to the Klamath Tribe, then the annual cost would be about \$2.6 million.

This bill could result in some loss of property tax revenues to state and local governments. Under H.R. 3554, land may be turned over to the Secretary of the Interior to be held in trust for the tribe. This transfer would not affect outstanding tax liabilities, but no new revenues would be forthcoming. Since the transfer is voluntary, no estimate of forgone state and local revenue is possible, but any resulting loss is not expected to be substantial.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

INFLATIONARY IMPACT STATEMENT

Enactment of H.R. 3554 will have no inflationary impact.

OVERSIGHT STATEMENT

No specific activities were undertaken by the Committee and no recommendations were submitted pursuant to Rule X, Clause 2(b)2.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs, by voice vote, approved the bill, as amended, and recommends its enactment by the House of Representatives.

DEPARTMENTAL REPORT

Although the Committee has not received to date a departmental report on this bill it notes the favorable testimony of the Department of the Interior on H.R. 3554 in the hearing held by this Committee on the bill.

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